

REMARKS

Overview

Claims 1-15, 18, 19, and 21-35 are pending. In the Office Action under reply, claims 1-15, 18, 19, and 21-35 were examined. Claims 24 and 32-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 1-15, 18, 19, and 21-35 are rejected under 35 U.S.C. 103(a) as unpatentable over Choi, US 2003/0091928 (“Choi”) in view of Houlihan et al., US 2004/0265733 (“Houlihan”). The rejections are overcome by the amendments set forth herein, and are otherwise traversed for at least the reasons set forth below.

Claim amendments

With the amendments set forth herein, claim 24 is amended to state that the second olefinic monomer unit is containing a pendant fluorinated hydroxyalkyl group R^H . This amendment is supported by the language of claim 1. Claim 24 is also amended to replace the drawing of formula (III) with a drawing that includes R^H . This amendment is supported by the original claim language, and is made in order to overcome the indefiniteness rejection under 35 U.S.C. 112, second paragraph. The structure is not new matter because it simply replaces the group $-L^3-CR^{11}R^{12}-OH$ with the label R^H , and this is consistent with claim 1. Accordingly, no new matter is added by these amendments.

Rejection under 35 U.S.C. §112, second paragraph

Claims 24 and 32-35 are rejected under 35 U.S.C. 112, second paragraph, as “indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention” (Action at 2).

This rejection is overcome by the amendments set forth herein to claim 24. Formula (III) is amended such that it includes R^H , and the claim is amended to specify that and the second olefinic monomer unit contains a pendant fluorinated hydroxyalkyl group R^H . The language of claim 24 is clear and unambiguous, and dependent claims 32-35 are also not indefinite. Applicants respectfully request withdrawal of the rejection.

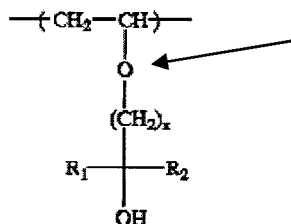
Rejection under 35 U.S.C. §103(a)

Claims 1-15, 18, 19, and 21-35 are rejected under 35 U.S.C. 103(a) as unpatentable over Choi in view of Houlihan. This rejection is traversed.

Applicants' comments set forth in the previous Response (dated 2/4/09) are incorporated herein by reference. In reply to those arguments, the Examiner has maintained the rejection "based on the claims being given the broadest reasonable interpretation such that R^H as defined can be met by the prior art of CHOI et al if the oxygen in the unit is seen to be a substituted alkylene group as defined for L3" (Action at 5). In fact, the Examiner's interpretation of Choi is not consistent with the definition provided in Applicants' original specification.

Two sentences from Applicants' specification are particularly relevant to the instant rejection over Choi. First, applicants' specification states that "[t]he term 'substituted alkyl' refers to alkyl substituted with one or more substituent groups, i.e., wherein a hydrogen atom is replaced with a non-hydrogen substituent group," (paragraph [00022]). Second, Applicants' specification states that "the terms 'heteroatom-containing alkyl' and 'heteroalkyl' refer to alkyl substituents in which at least one carbon atom is replaced with a heteroatom such as O, N, or S." These sentences define "substituent" and "heteroatom" as they are to be interpreted in Applicants' claims. Based on these definitions, the structure in Choi is not encompassed within the claims.

The "oxygen in the unit" that is mentioned by the Examiner refers to the oxygen attached to the polymer backbone shown in the following structure from Choi:



This oxygen is not a substituent as defined by Applicants' specification. In other words, the oxygen is not a non-hydrogen group that has replaced a hydrogen atom bound to a carbon. The oxygen is, however, a heteroatom based on the definition provided by the specification – it is an atom that replaces a carbon.

The definitions of substituted and heteroatom provided by applicants in the specification are entirely consistent with standard chemical terminology. The skilled artisan would

immediately recognize that the structure from Choi does not include a group that falls within the definition of L^3 (i.e., a group that is directly attached to an olefinic carbon, and is selected from C_1 - C_{12} alkylene, substituted C_1 - C_{12} alkylene, etc.). The structure in Choi contains a group that is a heteroatom-containing alkyl group, and such a group is not allowed in the currently pending claims.

Based on the above arguments, the structure of Choi does not meet the instant claims because it does not have a group that falls within the scope of L^3 . Accordingly, and for the reasons set forth in applicants' previous response, withdrawal of the rejection is respectfully requested.

CONCLUSION

Applicants submit that the claims of the application are in condition for allowance. Applicants respectfully request withdrawal of the rejections, and prompt issuance of a notice of allowance. If the Examiner has any questions concerning this communication, or would like to discuss the application, the art, or other pertinent matters, a telephone call to the undersigned would be welcomed.

Respectfully submitted,

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